

SECOND REGULAR SESSION

HOUSE BILL NO. 1652

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOLAN.

Read 1st time January 24, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4240L.011

AN ACT

To repeal sections 568.030, 568.045, and 568.050, RSMo, and to enact in lieu thereof four new sections relating to abandonment of a child.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 568.030, 568.045, and 568.050, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 210.950, 568.030, 568.045, and
3 568.050, to read as follows:

**210.950. 1. This section shall be known and may be cited as the "Safe Place for
2 Newborns Act of 2002".**

**3 2. A parent shall not be guilty of a violation of section 568.030, 568.045, or 568.050,
4 RSMo, if:**

**5 (1) The parent leaves his or her child in the physical custody of an employee, agent,
6 or member of the staff of a hospital, as defined in section 197.020, RSMo, while actively
7 engaged in the performance of his or her duties, whether on a paid or volunteer basis; and**

8 (2) The child is no more than five days old; and

9 (3) The parent has not physically abused the child.

**10 2. Any hospital may take physical custody of a child who is not more than five days
11 old if the child is voluntarily delivered to the hospital by the child's parent and the parent
12 expresses his or her intention not to return for the child. The hospital shall provide any
13 medical treatment necessary to protect the physical health or safety of the child until the
14 hospital transfers custody of the child to the division of family services pursuant to
15 subsection 3 of this section. The parent's voluntary delivery of the child in accordance with**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 this section shall constitute the parent's implied consent to such medical treatment.

17 **3. The hospital taking custody of a child pursuant to this section shall notify the**
18 **division of family services of the location of the child as soon as is reasonably possible after**
19 **custody is taken of such child. Following such initial notification, the division shall take**
20 **custody of the child within one business day after the hospital notifies the division that the**
21 **child is ready for discharge. The division of family services shall take reports from**
22 **hospitals receiving custody of children pursuant to this section on the toll-free telephone**
23 **line established in subsection 4 of this section.**

24 **4. To raise public awareness and to educate the public regarding the provisions of**
25 **this section, the division shall:**

26 **(1) Establish a toll-free twenty-four hour telephone line to provide information,**
27 **including but not limited to the following:**

28 **(a) Information that hospitals will take custody of a child that is transferred as**
29 **provided in this section;**

30 **(b) Information regarding legal and procedural requirements related to the**
31 **voluntary transfer of a child as provided in this section;**

32 **(c) Information regarding the legal consequences for endangering the welfare of**
33 **a child and potential criminal penalties;**

34 **(d) Information that surrendering a child as provided in this section is an**
35 **affirmative defense to any criminal charges initiated pursuant to sections 568.030, 568.045,**
36 **and 568.050, RSMo; and**

37 **(2) Prepare and distribute a pamphlet providing information to the public**
38 **concerning the provisions of this section which shall prominently display the toll-free**
39 **telephone number required in subdivision (1) of this subsection.**

40 **5. The parental rights of any parent of a child whose custody is transferred**
41 **pursuant to this section may be terminated as provided by sections 211.442 to 211.487,**
42 **RSMo, and chapter 453, RSMo.**

 568.030. 1. A person commits the crime of abandonment of a child in the first degree
2 if, as a parent, guardian or other person legally charged with the care or custody of a child less
3 than four years old, he **or she** leaves the child in any place with purpose wholly to abandon it,
4 under circumstances which are likely to result in serious physical injury or death.

5 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**
6 **defendant voluntarily transferred custody of the child in the manner provided by section**
7 **210.950, RSMo.**

8 **3. Abandonment of a child in the first degree is a class B felony.**

 568.045. 1. A person commits the crime of endangering the welfare of a child in the first

2 degree if:

3 (1) The person knowingly acts in a manner that creates a substantial risk to the life, body,
4 or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age of
6 seventeen years over whom the person is a parent, guardian, or otherwise charged with the care
7 and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen years
9 of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

10 (4) Such person enlists the aid, either through payment or coercion, of a person less than
11 seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport,
12 test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any
13 material used to manufacture, compound, produce, prepare, test or analyze amphetamine or
14 methamphetamine or any of their analogues; or

15 (5) Such person, in the presence of a person less than seventeen years of age, unlawfully
16 manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine
17 or methamphetamine or any of their analogues.

18 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**
19 **defendant voluntarily transferred custody of the child in the manner provided by section**
20 **210.950, RSMo.**

21 **3.** Endangering the welfare of a child in the first degree is a class D felony unless the
22 offense is committed as part of a ritual or ceremony, or except on a second or subsequent
23 offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the
2 second degree if:

3 (1) [He] **The person** with criminal negligence acts in a manner that creates a substantial
4 risk to the life, body or health of a child less than seventeen years old; or

5 (2) [He] **The person** knowingly encourages, aids or causes a child less than seventeen
6 years old to engage in any conduct which causes or tends to cause the child to come within the
7 provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection
8 1 of section 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of
10 a child less than seventeen years old, [he] **the person** recklessly fails or refuses to exercise
11 reasonable diligence in the care or control of such child to prevent him **or her** from coming
12 within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of
13 subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) [He] **The person** knowingly encourages, aids or causes a child less than seventeen

15 years of age to enter into any room, building or other structure which is a public nuisance as
16 defined in section 195.130, RSMo.

17 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**
18 **defendant voluntarily transferred custody of the child in the manner provided by section**
19 **210.950, RSMo.**

20 **3.** Nothing in this section shall be construed to mean the welfare of a child is endangered
21 for the sole reason that he **or she** is being provided nonmedical remedial treatment recognized
22 and permitted under the laws of this state.

23 **[3.] 4.** Endangering the welfare of a child in the second degree is a class A misdemeanor
24 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class
25 D felony.